

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

LAMONT L. GILLHAM, )

Defendant. )

4:05CR3041

**MEMORANDUM  
AND ORDER**

Lamont L. Gillham (Gillham) filed a 2255 motion (filing 41) seeking relief from a sentence I imposed after revocation of supervised release. Following initial review, I now deny the motion. First, and despite the fact that Gillham acknowledged in writing awareness of his appeal rights (filing 35), the defendant did not appeal. He offers no excuse for that failure. As a result, Gillham's 2255 motion must be denied because a collateral attack cannot be used as a substitute for an appeal. *See, e.g., Reid v. United States*, 976 F.2d 446, 447-48 (8<sup>th</sup> Cir. 1992). Second, and despite his contrary assertion, the record reflects (e.g., filings 34 & 37) that I considered the statutory and other relevant goals of sentencing when I imposed the 24-month prison sentence. Consequently, he is not entitled to relief on the merits.

IT IS ORDERED that the defendant's 2255 motion (filing 41) is denied with prejudice. A separate judgment will be entered.

DATED this 11<sup>th</sup> day of March, 2009.

BY THE COURT:

*s/Richard G. Kopf*  
United States District Judge